

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION (TOLEDO)

JOSEPH MIGLIORI,	)	
	)	
Plaintiff,	)	Case No.:
	)	
vs.	)	Judge:
	)	
MICROSOFT CORPORATION,	)	
	)	
and	)	
	)	
JOHN DOE	)	
(UNKNOWN MANUFACTURER OF A	)	
DEFECTIVE POWER SUPPLY, CORD	)	
OR BATTERY),	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant Microsoft Corporation ("Microsoft") hereby provides notice that it removes this action from the Lucas County Common Pleas Court to the United States District Court for the Northern District of Ohio, Western Division (Toledo). In support thereof, Microsoft respectfully states as follows:

1. The removed case is a civil action filed on April 3, 2008, in the Court of Commons Pleas, Lucas County, Ohio, styled *Joseph Migliori v. Jo Ann Merritt aka Jo Ann Clagg et al.*, Case No. CI-200803134-00, and concerns a house fire in Lucas County, Ohio.

2. The amount in controversy exceeds \$75,000, exclusive of interest and costs. In fact, Plaintiff alleges in the Complaint that his damages exceed \$750,000.

3. Plaintiff is and was a citizen of the State of Ohio when this action was filed in state court, at the time of removal, and at all other times throughout the pendency of this case.

4. Defendant Microsoft is and was a corporation formed under the laws of the State of Washington, with its principal place of business in the State of Washington, when this action was filed in state court, at the time of removal, and at all other times throughout the pendency of this case.

5. Migliori failed to ever effectuate service on Defendant Jo Ann Merritt aka Jo Ann Clagg within the six months provided under Ohio Rule of Civil Procedure 4(E). On March 19, 2009, the state court dismissed all claims against Defendant Jo Ann Merritt aka Jo Ann Clagg.

6. The only other remaining party is a “John Doe” defendant, whose citizenship is irrelevant for removal purposes. See 28 U.S.C. § 1441(a) (“For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.”).

7. Accordingly, as of March 19, 2009, there is federal subject matter jurisdiction over this case based on the amount in controversy and the complete diversity of citizenship. See 28 U.S.C. § 1332(a).

8. Removal is timely under 28 U.S.C. § 1446(b), because the Notice of Removal is filed within thirty (30) days of when it first became ascertainable that the case is removable. In addition, less than one (1) year has lapsed since this action was originally filed in state court.

9. Venue is proper in this Court under 28 U.S.C. § 1441(a), because Lucas County is served by the Northern District of Ohio, Western Division, Toledo.

10. The written notice required by 28 U.S.C. § 1446(d) is being filed with the Clerk of the Common Pleas Court for Lucas County, Ohio, and served on Guy Sagliocco, attorney for Plaintiff in this matter.

11. Copies of all process, pleadings, orders and other papers on file in the state court action are attached as Exhibit A. See 28 U.S.C. § 1446(a).

WHEREFORE, Defendant Microsoft respectfully requests that the state court action now pending against it in the Lucas County Court of Common Pleas, Case No. CI-200803134-00, proceed in this Court as a matter properly removed.

Respectfully submitted,

/s/ Gregory A. Harrison  
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Attorney for Defendant, Microsoft Corporation

**CERTIFICATE OF SERVICE**

This is to certify that on this 31st day of March, 2009, the foregoing was electronically filed via CM/ECF and was served upon counsel for Plaintiff, by first class, U.S. mail, postage prepaid, on this same date.

/s/ Gregory A. Harrison

Guy Sagliocco  
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